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STATE OF NEW HAMPSHIRE
DEPARTMENT OF EDUCATION
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[REDACTED]

[REDACTED]

Jennifer Chmiel—Superintendent, SAU 37
20 Hecker Street
Manchester, NH 03102

Salina Millora—Chief Student Services & Wellness Officer

Re: Special Education State Complaint # 25-03

Dear [REDACTED], Dr. Chmiel, and Ms. Millora:

The New Hampshire Department of Education, Governance Unit (“NHED”), has concluded its investigation of special education state complaint # 25-03. Based on the findings of fact in the investigation, NHED is issuing its written decision as well as providing a copy of the investigator’s report.

Below is a description of the allegation, as well as a summary of the investigator’s findings of facts based on the evidence submitted by all parties to this matter. If an allegation is substantiated, indicating a finding of noncompliance with special education law, then there may be a corrective action required of the school district to remedy any violations. The corrective action is intended to ensure compliance with IDEA by addressing the needs of the child and the appropriate future provision of services for all children with disabilities.

By way of relevant information, the child is enrolled in the [REDACTED]; however, the Manchester School District (“the District”) is the district of liability as the student is in legal custody of the Division of Children, Youth and Families (DCYF). Because of this, and pursuant to Ed 1115.01(a), a surrogate parent acts in the child’s best educational interests.

On [REDACTED], the child’s surrogate parent requested an evaluation based on a suspected disability in a letter mailed to the District. There was no response from the District, therefore the surrogate parent mailed the letter again on [REDACTED]. At the same time, the surrogate parent emailed the District’s director of student services to indicate interest in an evaluation for special education. There had been no response from the District up until the date the surrogate parent filed this complaint with NHED on [REDACTED] 24.

Allegation 1—Substantiated

The first allegation in this matter is that the District failed to comply with Ed 1106.01(e), which, in relevant part provides that:

The IEP shall, within 15 business days of receiving the referral, give the parent written notice of its disposition of the referral, including a request for written consent to conduct any individual evaluations needed.

Specifically, the complainant asserts that the District did not convene the IEP team to review the referral submitted by the Student's educational Surrogate Parent.

The District does not dispute the facts related to this case and acknowledges that it did not meet the required timelines to convene the IEP team for a disposition of referral meeting. Therefore, this allegation is substantiated.

Conclusion

While NHED appreciates the District's transparency regarding this complaint, it will also take this opportunity to emphasize that the child should not suffer the consequences of the District's delayed response to the referral. NHED encourages the IEP team to fully consider how it can support the child in making meaningful progress as it moves forward collaboratively.

Corrective Action Plan

The Manchester School District will convene an IEP team meeting to discuss the disposition of this referral. If an evaluation is agreed upon by the IEP team, NHED directs the District to expedite the evaluation to the greatest extent possible. Evidence of the corrective action must be submitted to the Department of Education Attn: Special Education Complaints, 25 Hall Street, Concord, NH 03301 by [REDACTED]

The Manchester School District will review their internal policies related to referrals and revise, as necessary, to ensure compliance with state and federal requirements. Relevant staff must be trained on the compliant policies and procedures. Evidence of this corrective action must be submitted to the Department of Education Attn: Special Education Complaints, 25 Hall Street, Concord, NH 03301 by [REDACTED]

We hope that in the future the district and parent will work together to resolve any differences that may arise.

Frank Edelblut
Commissioner of Education
NH Department of Education